

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD**

**MARK S. NEUMAN,**

**Plaintiff,**

**v.**

**CIVIL ACTION NO. 1:22-00280**

**MERCER COUNTY, WEST VIRGINIA  
PROSECUTING ATTORNEY'S OFFICE,**

**Defendant.**

**MEMORANDUM OPINION AND ORDER**

On November 3, 2022, plaintiff filed a "Motion for Dismissal." See ECF No. 10. Although plaintiff was represented by counsel when the case was filed, his attorney passed away. Unable to find a new attorney and not wishing to represent himself, plaintiff asks that the case be dismissed.

The court deems this filing to be a notice of dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). That rule provides that a plaintiff may voluntarily dismiss an action without a court order by filing "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment[.]" Id. Defendant has not filed an answer or otherwise pled. Accordingly, although the aforementioned rule does not require a court order, this action is **DISMISSED** without prejudice and the Clerk is directed to remove this action from the docket of the court.

The Clerk is directed to send copies of this Order to all counsel of record and plaintiff.

**IT IS SO ORDERED** this 19th day of April, 2023.

ENTER:

David A. Faber

David A. Faber  
Senior United States District Judge